

TRANSPORTATION GOVERNANCE

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the Public Transit District Act by amending provisions relating to public transit district governance.

Highlighted Provisions:

This bill:

- ▶ for a public transit district that has 200,000 or more people residing within its boundaries:
 - increases the number of members on the board of trustees; and
 - changes the Transportation Commission member on the board of trustees from a nonvoting, ex officio member to a voting member;
- ▶ creates an internal auditor public transit district officer that is appointed by the board of trustees;
- ▶ provides that the person appointed as the internal auditor shall be a licensed certified internal auditor or certified public accountant and meet certain experience requirements;
- ▶ requires the board of trustees of a public transit district to:
 - direct the internal auditor to conduct internal audits that the board of trustees determines are critical to the success of the organization; and
 - hear audit reports of the audits conducted as directed by the board; and
- ▶ makes technical changes.



28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill takes effect on July 1, 2008.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **17B-2a-807**, as renumbered and amended by Laws of Utah 2007, Chapter 329

35 **17B-2a-808**, as enacted by Laws of Utah 2007, Chapter 329

36 **17B-2a-810**, as enacted by Laws of Utah 2007, Chapter 329

37 **72-1-303**, as last amended by Laws of Utah 2007, Chapter 329



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **17B-2a-807** is amended to read:

41 **17B-2a-807. Public transit district board of trustees -- Appointment --**
42 **Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

43 (1) (a) If 200,000 people or fewer reside within the boundaries of a public transit
44 district, the board of trustees shall consist of members appointed by the legislative bodies of
45 each municipality, county, or unincorporated area within any county on the basis of one
46 member for each full unit of regularly scheduled passenger routes proposed to be served by the
47 district in each municipality or unincorporated area within any county in the following calendar
48 year.

49 (b) For purposes of determining membership under Subsection (1)(a), the number of
50 service miles comprising a unit shall be determined jointly by the legislative bodies of the
51 municipalities or counties comprising the district.

52 (c) The board of trustees of a public transit district under this Subsection (1) may
53 include a member that is a commissioner on the Transportation Commission created in Section
54 72-1-301 and appointed as provided in Subsection [~~(10)~~] (11), who shall serve as a nonvoting,
55 ex officio member.

56 (d) Members appointed under this Subsection (1) shall be appointed and added to the
57 board or omitted from the board at the time scheduled routes are changed, or as municipalities,
58 counties, or unincorporated areas of counties annex to or withdraw from the district using the

59 same appointment procedures.

60 (e) For purposes of appointing members under this Subsection (1), municipalities,
61 counties, and unincorporated areas of counties in which regularly scheduled passenger routes
62 proposed to be served by the district in the following calendar year is less than a full unit, as
63 defined in Subsection (1)(b), may combine with any other similarly situated municipality or
64 unincorporated area to form a whole unit and may appoint one member for each whole unit
65 formed.

66 (2) (a) If more than 200,000 people reside within the boundaries of a public transit
67 district, the board of trustees shall consist of 15 members appointed as described under this
68 Subsection (2), three members appointed as described in Subsection (4), and one [~~nonvoting~~
69 ~~ex-officio~~] voting member appointed as provided in Subsection [~~(10)~~] (11).

70 (b) Except as provided in Subsections (2)(c) and(d), the board shall apportion voting
71 members to each county within the district using an average of:

72 (i) the proportion of population included in the district and residing within each county,
73 rounded to the nearest 1/15 of the total transit district population; and

74 (ii) the proportion of transit sales and use tax collected from areas included in the
75 district and within each county, rounded to the nearest 1/15 of the total transit sales and use tax
76 collected for the transit district.

77 (c) The board shall join an entire or partial county not apportioned a voting member
78 under this Subsection (2) with an adjacent county for representation. The combined
79 apportionment basis included in the district of both counties shall be used for the
80 apportionment.

81 (d) (i) If rounding to the nearest 1/15 of the total public transit district apportionment
82 basis under Subsection (2)(b) results in an apportionment of more than 15 members, the county
83 or combination of counties with the smallest additional fraction of a whole member proportion
84 shall have one less member apportioned to it.

85 (ii) If rounding to the nearest 1/15 of the total public transit district apportionment
86 basis under Subsection (2)(b) results in an apportionment of less than 15 members, the county
87 or combination of counties with the largest additional fraction of a whole member proportion
88 shall have one more member apportioned to it.

89 (e) If the population in the unincorporated area of a county is at least 1/15 of the

90 district's population, the county executive, with the advice and consent of the county legislative
91 body, shall appoint one voting member to represent each 1/15 of the district's population within
92 a county's unincorporated area population.

93 (f) If a municipality's population is at least 1/15 of the district's population, the chief
94 municipal executive, with the advice and consent of the municipal legislative body, shall
95 appoint one voting member to represent each 1/15 of the district's population within a
96 municipality.

97 (g) The number of voting members appointed from a county and municipalities within
98 a county under Subsections (2)(e) and (f) shall be subtracted from the county's total voting
99 member apportionment under this Subsection (2).

100 (h) If the entire county is within the district, the remaining voting members for the
101 county shall represent the county or combination of counties, if Subsection (2)(c) applies, or
102 the municipalities within the county.

103 (i) If the entire county is not within the district, and the county is not joined with
104 another county under Subsection (2)(c), the remaining voting members for the county shall
105 represent a municipality or combination of municipalities.

106 (j) Except as provided under Subsections (2)(e) and (f), voting members representing
107 counties, combinations of counties if Subsection (2)(c) applies, or municipalities within the
108 county shall be designated and appointed by a simple majority of the chief executives of the
109 municipalities within the county or combinations of counties if Subsection (2)(c) applies. The
110 appointments shall be made by joint written agreement of the appointing municipalities, with
111 the consent and approval of the county legislative body of the county that has at least 1/15 of
112 the district's apportionment basis.

113 (k) Voting members representing a municipality or combination of municipalities shall
114 be designated and appointed by the chief executive officer of the municipality or simple
115 majority of chief executive officers of municipalities with the consent of the legislative body of
116 the municipality or municipalities.

117 (l) The appointment of voting members shall be made without regard to partisan
118 political affiliation from among citizens in the community.

119 (m) Each voting member shall be a bona fide resident of the municipality, county, or
120 unincorporated area or areas which the voting member is to represent for at least six months

121 before the date of appointment, and must continue in that residency to remain qualified to serve
122 as a voting member.

123 (n) (i) All population figures used under this section shall be derived from the most
124 recent official census or census estimate of the United States Bureau of the Census.

125 (ii) If population estimates are not available from the United States Bureau of Census,
126 population figures shall be derived from the estimate from the Utah Population Estimates
127 Committee.

128 (iii) All transit sales and use tax totals shall be obtained from the State Tax
129 Commission.

130 (o) (i) The board shall be apportioned as provided under this section in conjunction
131 with the decennial United States Census Bureau report every ten years.

132 (ii) Within 120 days following the receipt of the population estimates under this
133 Subsection (2)(o), the district shall reapportion representation on the board of trustees in
134 accordance with this section.

135 (iii) The board shall adopt by resolution a schedule reflecting the current and proposed
136 apportionment.

137 (iv) Upon adoption of the resolution, the board shall forward a copy of the resolution to
138 each of its constituent entities as defined under Section 17B-1-701.

139 (v) The appointing entities gaining a new board member shall appoint a new member
140 within 30 days following receipt of the resolution.

141 (vi) The appointing entities losing a board member shall inform the board of which
142 member currently serving on the board will step down upon appointment of a new member
143 under Subsection (2)(o)(v).

144 (3) Upon the completion of an annexation to a public transit district under Chapter 1,
145 Part 4, Annexation, the annexed area shall have a representative on the board of trustees on the
146 same basis as if the area had been included in the district as originally organized.

147 (4) In addition to the voting members appointed in accordance with Subsection (2), the
148 board shall consist of three voting members appointed as follows:

149 (a) one member appointed by the speaker of the House of Representatives;

150 (b) one member appointed by the president of the Senate; and

151 (c) one member appointed by the governor.

152 ~~[(4)]~~ (5) (a) Except the initial members of the board, the terms of office of the voting
153 members of the board shall be two years or until a successor is appointed, qualified, seated, and
154 has taken the oath of office.

155 (b) At the first meeting of the initial members of the board held after July 1, 2004,
156 voting members of the board shall designate by the drawing of lots for 1/2 of their number to
157 serve for one-year terms and 1/2 for two-year terms.

158 (c) A voting member may not be appointed for more than three successive full terms.

159 ~~[(5)]~~ (6) (a) Vacancies for voting members shall be filled by the official appointing the
160 member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy
161 within 90 days.

162 (b) If the appointing official under Subsection (1) does not fill the vacancy within 90
163 days, the board of trustees of the authority shall fill the vacancy.

164 (c) If the appointing official under Subsection (2) does not fill the vacancy within 90
165 days, the governor, with the advice and consent of the Senate, shall fill the vacancy.

166 ~~[(6)]~~ (7) (a) Each voting member may cast one vote on all questions, orders,
167 resolutions, and ordinances coming before the board of trustees.

168 (b) A majority of all voting members of the board of trustees are a quorum for the
169 transaction of business.

170 (c) The affirmative vote of a majority of all voting members present at any meeting at
171 which a quorum was initially present shall be necessary and, except as otherwise provided, is
172 sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

173 ~~[(7)]~~ (8) Each public transit district shall pay to each voting member:

174 (a) an attendance fee of \$50 per board or committee meeting attended, not to exceed
175 \$200 in any calendar month to any voting member; and

176 (b) reasonable mileage and expenses necessarily incurred to attend board or committee
177 meetings.

178 ~~[(8)]~~ (9) (a) Members of the initial board of trustees shall convene at the time and place
179 fixed by the chief executive officer of the entity initiating the proceedings.

180 (b) Immediately upon convening, the board of trustees shall elect from its voting
181 membership a president, vice president, and secretary [~~who~~].

182 (c) The members elected under Subsection (9)(b) shall serve for a period of two years

183 or until their successors shall be elected and qualified.

184 ~~[(9)]~~ (10) At the time of a voting member's appointment or during a voting member's
185 tenure in office, a voting member may not hold any employment, except as an independent
186 contractor or elected public official, with a county or municipality within the district.

187 ~~[(10)]~~ (11) The Transportation Commission created in Section 72-1-301:

188 (a) for a public transit district serving a population of 200,000 people or fewer, may
189 appoint a commissioner of the Transportation Commission to serve on the board of trustees as
190 a nonvoting, ex officio member; and

191 (b) for a public transit district serving a population of more than 200,000 people, shall
192 appoint a commissioner of the Transportation Commission to serve on the board of trustees as
193 a ~~[nonvoting, ex officio]~~ voting member.

194 ~~[(11)]~~ (12) (a) (i) Each member of the board of trustees of a public transit district is
195 subject to recall at any time by the legislative body of the county or municipality from which
196 the member is appointed.

197 (ii) Each recall of a board of trustees member shall be made in the same manner as the
198 original appointment.

199 (iii) The legislative body recalling a board of trustees member shall provide written
200 notice to the member being recalled.

201 (b) Upon providing written notice to the board of trustees, a member of the board may
202 resign from the board of trustees.

203 (c) If a board member is recalled or resigns under this Subsection ~~[(11)]~~ (12), the
204 vacancy shall be filled as provided in Subsection ~~[(5)]~~ (6).

205 Section 2. Section **17B-2a-808** is amended to read:

206 **17B-2a-808. Public transit district board of trustees powers and duties --**

207 **Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.**

208 (1) The powers and duties of a board of trustees of a public transit district stated in this
209 section are in addition to the powers and duties stated in Section 17B-1-301.

210 (2) The board of trustees of each public transit district shall:

211 (a) appoint and fix the salary of a general manager, as provided in Section 17B-2a-811;

212 (b) determine the transit facilities that the district should acquire or construct;

213 (c) supervise and regulate each transit facility that the district owns and operates,

214 including:

215 (i) fixing rates, fares, rentals, and charges and any classifications of rates, fares, rentals,
216 and charges; and

217 (ii) making and enforcing rules, regulations, contracts, practices, and schedules for or
218 in connection with a transit facility that the district owns or controls;

219 (d) control the investment of all funds assigned to the district for investment, including
220 funds:

221 (i) held as part of a district's retirement system; and

222 (ii) invested in accordance with the participating employees' designation or direction
223 pursuant to an employee deferred compensation plan established and operated in compliance
224 with Section 457 of the Internal Revenue Code;

225 (e) invest all funds according to the procedures and requirements of Title 51, Chapter
226 7, State Money Management Act;

227 (f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's
228 services from the interest earnings of the investment fund for which the custodian is appointed;

229 (g) (i) cause an annual audit of all district books and accounts to be made by an
230 independent certified public accountant;

231 (ii) as soon as practicable after the close of each fiscal year, submit to the chief
232 administrative officer and legislative body of each county and municipality with territory
233 within the district a financial report showing:

234 (A) the result of district operations during the preceding fiscal year; and

235 (B) the district's financial status on the final day of the fiscal year; and

236 (iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon
237 request in a quantity that the board considers appropriate; ~~and~~

238 (h) report at least annually to the Transportation Commission created in Section
239 72-1-301 the district's short-term and long-range public transit plans, including the transit
240 portions of applicable regional transportation plans adopted by a metropolitan planning
241 organization established under 23 U.S.C. Sec. 134[-];

242 (i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits
243 that the board of trustees determines to be the most critical to the success of the organization;
244 and

- 245 (j) hear audit reports for audits conducted in accordance with Subsection (2)(i).
246 (3) A board of trustees of a public transit district may:
247 (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that
248 are:
249 (i) not repugnant to the United States Constitution, the Utah Constitution, or the
250 provisions of this part; and
251 (ii) necessary for:
252 (A) the government and management of the affairs of the district;
253 (B) the execution of district powers; and
254 (C) carrying into effect the provisions of this part;
255 (b) provide by resolution, under terms and conditions the board considers fit, for the
256 payment of demands against the district without prior specific approval by the board, if the
257 payment is:
258 (i) for a purpose for which the expenditure has been previously approved by the board;
259 (ii) in an amount no greater than the amount authorized; and
260 (iii) approved by the general manager or other officer or deputy as the board prescribes;
261 (c) (i) hold public hearings and subpoena witnesses; and
262 (ii) appoint district officers to conduct a hearing and require the officers to make
263 findings and conclusions and report them to the board; and
264 (d) appoint a custodian for the funds and securities under its control, subject to
265 Subsection (2)(f).
266 (4) A member of the board of trustees of a public transit district or a hearing officer
267 designated by the board may administer oaths and affirmations in a district investigation or
268 proceeding.
269 (5) (a) The vote of the board of trustees on each ordinance shall be by roll call vote
270 with each affirmative and negative vote recorded.
271 (b) (i) Subject to Subsection (5)(b)(ii), the board of trustees may adopt a resolution or
272 order by voice vote.
273 (ii) The vote of the board of trustees on a resolution or order shall be by roll call vote if
274 a member of the board so demands.
275 (c) (i) Except as provided in Subsection (5)(c)(ii), the board of trustees of a public

276 transit district may not adopt an ordinance unless it is:

277 (A) introduced at least a day before the board of trustees adopts it; or

278 (B) mailed by registered mail, postage prepaid, to each member of the board of trustees
279 at least five days before the day upon which the ordinance is presented for adoption.

280 (ii) Subsection (5)(c)(i) does not apply if the ordinance is adopted by a unanimous vote
281 of all board members present at a meeting at which at least 3/4 of all board members are
282 present.

283 (d) Each ordinance adopted by a public transit district's board of trustees shall take
284 effect upon adoption, unless the ordinance provides otherwise.

285 Section 3. Section **17B-2a-810** is amended to read:

286 **17B-2a-810. Officers of a public transit district.**

287 (1) (a) The officers of a public transit district shall consist of:

288 (i) the members of the board of trustees;

289 (ii) a president and vice president, appointed by the board of trustees, subject to
290 Subsection (1)(b);

291 (iii) a secretary, appointed by the board of trustees;

292 (iv) a general manager, appointed by the board of trustees as provided in Section
293 17B-2a-811;

294 (v) a general counsel, appointed by the board of trustees, subject to Subsection (1)(c);

295 (vi) a treasurer, appointed as provided in Section 17B-1-633;

296 (vii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(d);

297 [~~and~~]

298 (viii) an internal auditor, appointed by the board of trustees, subject to Subsection
299 (1)(e); and

300 [~~(viii)] (ix) other officers, assistants, and deputies that the board of trustees considers
301 necessary.~~

302 (b) The district president and vice president shall be members of the board of trustees.

303 (c) The person appointed as general counsel shall:

304 (i) be admitted to practice law in the state; and

305 (ii) have been actively engaged in the practice of law for at least seven years next
306 preceding the appointment.

307 (d) The person appointed as comptroller shall have been actively engaged in the
308 practice of accounting for at least seven years next preceding the appointment.

309 (e) The person appointed as internal auditor shall be a licensed certified internal auditor
310 or certified public accountant with at least five years experience in the auditing or public
311 accounting profession, or the equivalent, prior to appointment.

312 (2) (a) The district's general manager shall appoint all officers and employees not
313 specified in Subsection (1).

314 (b) Each officer and employee appointed by the district's general manager serves at the
315 pleasure of the general manager.

316 (3) The board of trustees shall by ordinance or resolution fix the compensation of all
317 district officers and employees, except as otherwise provided in this part.

318 (4) (a) Each officer appointed by the board of trustees or by the district's general
319 manager shall take the oath of office specified in Utah Constitution Article IV, Section 10.

320 (b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district
321 secretary no later than 15 days after the commencement of the officer's term of office.

322 Section 4. Section **72-1-303** is amended to read:

323 **72-1-303. Duties of commission.**

324 The commission has the following duties:

325 (1) determining priorities and funding levels of projects in the state transportation
326 systems for each fiscal year based on project lists compiled by the department;

327 (2) determining additions and deletions to state highways under Chapter 4, Designation
328 of State Highways Act;

329 (3) holding public hearings and otherwise providing for public input in transportation
330 matters;

331 (4) making policies and rules in accordance with Title 63, Chapter 46a, Utah
332 Administrative Rulemaking Act, necessary to perform the commission's duties described under
333 this section;

334 (5) in accordance with Section 63-46b-12, reviewing orders issued by the executive
335 director in adjudicative proceedings held in accordance with Title 63, Chapter 46b,
336 Administrative Procedures Act;

337 (6) advising the department in state transportation systems policy;

338 (7) approving settlement agreements of condemnation cases subject to Section
339 63-38b-401;

340 (8) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a
341 nonvoting, ex officio member or a voting member on the board of trustees of a public transit
342 district;

343 (9) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term
344 and long-range public transit plans; and

345 (10) reviewing administrative rules made, amended, or repealed by the department.

346 Section 5. **Effective date.**

347 This bill takes effect on July 1, 2008.

Legislative Review Note
as of 2-11-08 4:42 PM

Office of Legislative Research and General Counsel

S.B. 231 - Transportation Governance

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments. The bill provides three additional board of trustee members for the UTA and is expected to cost \$10,000 per year to compensate these new members for meeting attendance.
